



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Virginia Department of Health
VAC Chapter Number:	12 VAC 5-585
Regulation Title:	Biosolids Use Regulations
Action Title:	Amendment for Nutrient Management Practices
Date:	December 22, 2004

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The *Biosolids Use Regulations* (12 VAC 5-585) are to be amended to provide regulations and standards for enforcement and land application site management practices to ensure permit compliance and to address nutrient management concerns.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Legislation passed by the General Assembly (SB 1088, Acts of Assembly c. 681, 2003) and signed into law by the Governor, amended § 32.1-164.6 of the Code of Virginia (available electronically at <http://leg1.state.va.us/cgi-bin/legp504.exe?031+ful+CHAP0681>), requires that the State Board of Health (Board) adopt regulations for local enforcement of permits issued through the *Biosolids Use Regulations*. This legislation also specifies that the *Biosolids Use Regulations* be amended to include requirements for site specific nutrient management plans, including the approval of such plans by the Department of Conservation and Recreation (DCR).

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The Regulations Advisory Committee (BURAC) is assisting the VDH in developing draft amendments to be presented to the Board of Health for approval as Proposed Amendments in accordance with the Administrative Process Act (APA). The Final Amendments will have to be adopted by the Board of Health in accordance with the APA, in order to meet the mandate stipulated in Sections 32.1-164.6 and 32.1-164.7 of the *Code of Virginia (Code)*. The amended regulations will include requirements for resolving enforcement disputes between permittees and localities that have adopted an ordinance for testing and monitoring land application pursuant to Section 62.1-44.19:3 of the *Code*. The amendments will also require that nutrient management plans be prepared for all sites permitted for land application of biosolids. In addition, DCR approval of nutrient management plans will be required for either, those sites receiving biosolids more frequently than once every three years at greater than 50 % of the agronomic rate established by the *Biosolids Use Regulations*, or sites owned or operated in conjunction with a confined animal feeding operation.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

No Alternatives have been considered as the development of this regulation has been clearly authorized and mandated in Sections 32.1-164.6 and 164.7 of the *Code*.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory action will have no anticipated or associated impacts on family rights to educate and supervise children. It will not discourage economic self-sufficiency and family responsibilities and commitments or decrease disposable family income.